

Serial No. 09/218,213  
Filing Date: December 22, 1998



PATENT  
Attorney's Docket No. ALLIA.171CPC1  
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## DECLARATION AND POWER OF ATTORNEY - USA PATENT APPLICATION

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name;

I believe I am an original, first and joint inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled **Stabilized Preparations For Use in Nebulizers**; the specification of which was filed December 22, 1998, assigned Application Serial No. 09/218,213.

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above;

I acknowledge the duty to disclose to the U.S. Patent and Trademark Office all information known to me to be material to patentability as defined in Title 37, Code of Federal Regulations, § 1.56;

I hereby claim foreign priority benefits under Title 35, United States Code, § 119 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

### PRIOR FOREIGN APPLICATION(S)

### Priority Claimed

No.: **PCT/US98/20603** Country: **PCT** Date Filed: **September 29, 1998**

**Yes**

I hereby claim the benefit under Title 35, United States Code, §120 of any United States applications listed below, and insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code §112, I acknowledge the duty to disclose to the U.S. Patent and Trademark Office all information known to me to be material to patentability as defined in Title 37, Code of Federal Regulations, §1.56, which became available between the filing date of the prior application and the national or PCT international filing date of this application:

### PRIOR UNITED STATES APPLICATIONS

### Priority Claimed

No.: **60/060,337** Date Filed: **September 29, 1997** Status: **Lapsed**

**Yes**

No.: **09/106,932** Date Filed: **June 29, 1998** Status: **Pending**

**Yes**

No.: **09/133,848** Date Filed: **August 14, 1998** Status: **Pending**

**Yes**

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POWER OF ATTORNEY: I hereby appoint the following attorneys and/or agents to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith (if this application is assigned, I acknowledge that the appointed individuals do not represent me, and that instead they represent the assignee): Louis J. Knobbe, Registration No. 18,780; Don W. Martens, Registration No. 21,107; Gordon H. Olson, Registration No. 20,319; James B. Bear, Registration No. 25,221; Darrell L. Olson, Registration No. 28,247; William B. Bunker, Registration No. 29,365; William H. Nieman, Registration No. 30,201; Lowell Anderson, Registration No. 30,990; Arthur S. Rose, Registration No. 28,038; James F. Lesniak, Registration No. 25,240; Ned A. Israelsen, Registration No. 29,655; Drew S. Hamilton, Registration No. 29,801; Jerry T. Sewell, Registration No. 31,567; John B. Sganga, Jr., Registration No. 31,302; Edward A. Schlatter, Registration No. 32,297; Gerard von Hoffmann, Registration No. 33,043; Joseph R. Re, Registration No. 31,291; John M. Carson, Registration No. 34,303; Andrew H. Simpson, Registration No. 31,469; Daniel E. Altman, Registration No. 34,115; Ernest A. Beutler, Registration No. 19,901; Vito A. Canuso, Registration No. 35,471; William H. Shreve, Registration No. 35,678; Stephen C. Jensen, Registration No. 35,556; Steven J. Nataupsky, Registration No. 37,688; Michael H. Trenholm, Registration No. 37,743; AnneMarie Kaiser, Registration No. 37,649; Edward J. Treska, Registration No. 37,744; Nancy Ways Vensko, Registration No. 36,298; Glenn R. Smith, Registration No. 38,308; Jonathan A. Barney, Registration No. 34,292; Michael G. Del Monte, Registration No. 38,757; Ronald J. Schoenbaum, Registration No. 38,297; Richard C. Gilmore, Registration No. 37,335; John R. King, Registration No. 34,362; William S. Reimus, Registration No. 38,279; Frederick S. Berretta, Registration No. 38,004; Yasuo Muramatsu, Registration No. 38,684; Raimond J. Salenicks, Registration No. 37,924; Renée E. Canuso, Registration No. 36,657; Guy L. Cumberbatch, Registration No. 36,114; Michael L. Fuller, Registration No. 36,516 of Knobbe, Martens, Olson & Bear, 620 Newport Center Drive, Sixteenth Floor, Newport Beach, CA 92660; and Christopher A. Dayton Registration No. 35,114 of Alliance Pharmaceutical Corp., 3040 Science Park Road, San Diego, CA 92121.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful, false statements may jeopardize the validity of the application or any patent issued thereon.

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Full name of first inventor: **Ernest G. Schutt**

Inventor's signature

*Ernest G. Schutt*

Date

*11 Feb, 1999*

Residence: **San Diego, California**

Citizenship: **United States of America**

Post Office Address: **12139 Ragweed Street, San Diego, California, 92129**

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Full name of second inventor: **Thomas E. Tarara**

Inventor's signature



Date

11 Feb 99

Residence: **San Diego, California**

Citizenship: **United States of America**

Post Office Address: **3120 Felton Street, San Diego, California, 92104**

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Full name of third inventor: **Luis A. Dellamary**

Inventor's signature



Date

11 Feb 99

Residence: **San Marcos, California**

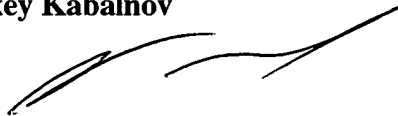
Citizenship: **Mexico**

Post Office Address: **838 Redberry Court, San Marcos, California, 92069-1846**

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Full name of fourth inventor: **Alexey Kabalnov**

Inventor's signature



Date

2/2/99

Residence: **Corvallis, Oregon**

Citizenship: **Russia**

Post Office Address: **2900 Highland Drive, Corvallis, Oregon 97330**

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Full name of fifth inventor: **Jeffry G. Weers**

Inventor's signature



Date

11 Feb 99

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Applicant or Patentee: Schutt, et al.  
Serial or Patent No.: 09/218,213  
Filed or Issued: December 22, 1998  
For: STABILIZED PREPARATIONS FOR USE IN NEBULIZERS



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### VERIFIED STATEMENT (DECLARATION) CLAIMING SMALL-ENTITY STATUS

I, the undersigned, do hereby declare that:

☒ I am an official of the small business concern empowered to act on behalf of the concern identified below:

NAME OF CONCERN: ALLIANCE PHARMACEUTICAL CORP.  
ADDRESS OF CONCERN: 3040 Science Park Road, San Diego, CA 92121

I further declare that the above-identified small business concern qualifies as a small business concern as defined in 13 CFR 121.12, and reproduced in 37 CFR 1.9(d), for purposes of paying reduced fees to the United States Patent and Trademark Office, in that the number of employees of the concern, including those of its affiliates, does not exceed 500 persons. For purposes of this statement, (1) the number of employees of the business concern is the average over the previous fiscal year of the concern of the persons employed on a full-time, part-time or temporary basis during each of the pay periods of the fiscal year, and (2) concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both. I further declare that rights under contract or law have been conveyed to and remain with the small business concern identified above with regard to the invention described in the patent or application identified above.

The individual, concern or organization identified above has not assigned, granted, conveyed or licensed, and is under no obligation under contract or law to assign, grant, convey or license, any rights in the invention to any person who would not qualify as an independent inventor under 37 CFR 1.9(c) if that person had made the invention, or to any concern which would not qualify as a small business concern under 37 CFR 1.9(d) or a nonprofit organization under 37 CFR 1.9(e).

If the rights held by the above-identified individual, concern or organization are not exclusive, each individual, concern or organization having rights in the invention are identified below. Each such individual, concern or organization must file separate verified statements averring to their status as small entities.

**\*NOTE: Separate verified statements are required from each named person, concern or organization having rights to the invention averring to their status as small entities. (37 CFR 1.27).**

FULL NAME:

ADDRESS:

☐ INDIVIDUAL      ☐ SMALL BUSINESS CONCERN      ☐ NONPROFIT ORGANIZATION

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small-entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 CFR 1.28(b)).

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

NAME OF PERSON SIGNING: Lloyd A. Rowland  
TITLE OF PERSON (if not an owner or individual): Secretary & General Counsel  
ADDRESS OF PERSON SIGNING: 3040 Science Park Road, San Diego, CA 92121

SIGNATURE: 

DATE: March 8, 1999